

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
PUBLIC UTILITY COMMISSION OF TEXAS
AUSTIN, TEXAS

PETITION OF UTEX COMMUNICATIONS)	
CORPORATION FOR POST-INTERCONNECTION)	
DISPUTE RESOLUTION WITH AT&T TEXAS AND)	DOCKET NO.
PETITION OF AT&T TEXAS FOR POST-)	33323
INTERCONNECTION DISPUTE RESOLUTION)	
WITH UTEX COMMUNICATIONS CORPORATION)	

HEARING ON THE MERITS
WEDNESDAY, NOVEMBER 7, 2007

BE IT REMEMBERED THAT AT approximately 9:13 a.m.,
on wednesday, the 7th day of November 2007, the
above-entitled matter came on for hearing at the
Public Utility Commission of Texas, 1701 North
Congress Avenue, William B. Travis Building, Austin,
Texas 78701, Austin, Texas, before MICHAEL E. FIELD
and WILLIAM E. TALBOT, Arbitrators; and the following
proceedings were reported by Kim Pence, Randy Finch
and Lou Ray, Certified Shorthand Reporters of:
Volume 2 Pages 48 - 357

Exhibit A - 11_7_07 hearing Transcript excerpt

1 AFTERNOON SESSION

2 WEDNESDAY, NOVEMBER 7, 2007

3 (1:18 p.m.)

4 JUDGE FIELD: Let's come back on the
5 record, please. Good afternoon. We are still on
6 panel one. I think we finished the first witness. I
7 believe Mr. McCollough is still up to bat. And who
8 will you be...

9 MR. MCCOLLOUGH: Mr. Constable.

10 JUDGE FIELD: Okay. Go right ahead,
11 then.

12 MR. MCCOLLOUGH: Thank you.

13 PANEL 1

14 PRESENTATION ON BEHALF OF AT&T TEXAS (CONTINUED)

15 PATRICIA H. PELLERIN, JASON E. CONSTABLE

16 BILL COLE, DEBBIE JOSEPHSON, CHAD TOWNES,
17 having been previously sworn, continued to testify as
18 follows:

19 CROSS-EXAMINATION (CONTINUED)

20 BY MR. MCCOLLOUGH:

21 Q Good afternoon, sir.

22 A (Constable) Good afternoon.

23 Q Let's jump to pages 19 to 21 of your direct
24 testimony. That's part of your discussion of some
25 test calls or -- or at least one test call that was

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1 made?

2 A (Constable) That is correct.

3 Q That test was done in April of 2005?

4 A (Constable) Correct.
5 Q It was performed by Mr. Herrera?
6 A (Constable) No. I believe that David and
7 Paul Stalnaker worked together --
8 Q Both of them.
9 A (Constable) -- to perform the test.
10 Q Okay.
11 A (Constable) Correct.
12 Q The test was conducted in the Irving NOC
13 outside of Dallas, wasn't it?
14 A (Constable) I believe so. David is in
15 Irving and then Paul is in Richardson.
16 Q You say -- or at least the material that you
17 present on page 20 of your direct indicates that the
18 calling number was (210) 599-6361?
19 A (Constable) Mr. McCollough, I apologize. I
20 have the redacted version --
21 Q Sure. Here. Let me show you my copy.
22 A (Constable) Thank you.
23 Q This appears on page 20.
24 A (Constable) Uh-huh.
25 Q This is where you have the representation of

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1 some of the information in the call on the ISUP.
2 A (Constable) Correct.
3 Q You show an address signal here of (210)
4 599-6361.
5 A (Constable) Correct.
6 Q That would be the calling party number?
7 A (Constable) Correct.
8 Q That's the number associated with the San

Exhibit A - 11_7_07 hearing Transcript excerpt

9 Antonio local calling area, isn't it?

10 A (Constable) Correct.

11 Q So Mr. Herrera was -- and Mr. Stalnaker were
12 in Dallas?

13 A (Constable) Again, David was in Irving
14 and -- and Paul was in Richardson, that's right.

15 Q Okay. So they were inserting a dummy CPN.

16 A (Constable) No, they didn't insert a dummy
17 CPN.

18 Q Uh-huh. Okay. In fact, they were using
19 something akin to a leaky PBX. They were using a
20 Flexcomm system to connect to the San Antonio central
21 office and then launch a call from there. Right?

22 A (Constable) Well, they were using Flexcomm,
23 but it's not a leaky PBX.

24 Q Okay. Well, they were in Irving. They
25 connected to the San Antonio CO somehow, launched a

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1 call?

2 A (Constable) Mm-hmm.

3 Q Right? And then called back to the same
4 location where they were sitting in Irving. And the
5 phone rang right next to them. Right?

6 A (Constable) I believe -- I don't know if the
7 phone rang next to them or not.

8 Q But the call was back to --

9 A (Constable) I saw the result of the -- the
10 result of the call. I didn't participate in the
11 actual production of the test call.

12 Q Well, the call end number is (972) 991-8630.

13 Yes?

14 A (Constable) Yes.

15 Q That's a Dallas number?

16 A (Constable) Correct.

17 Q Yes?

18 A (Constable) Dallas area. Correct.

19 Q So Mr. Herrera and Mr. Stalnaker, they were
20 calling themselves. Correct?

21 A (Constable) Again, Mr. McCollough, I don't
22 know. I participated -- I got the results of the test
23 data, but I didn't participate to know actually how
24 the test was conducted.

25 Q So the end points of the communication went

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1 from Irving to Irving. Yes?

2 A (Constable) Again, I don't know.

3 Q Well, they weren't in San Antonio, were they?

4 A (Constable) No.

5 Q Okay. So if you look at the definition of a
6 local call in the interconnect agreement, the call
7 originated in Irving and terminated in Irving, didn't
8 it?

9 A (Constable) No. Again, Paul was in
10 Richardson and David was in Irving. And I don't know
11 whose phone that they actually used.

12 Q Well --

13 A (Constable) To make the call.

14 Q So it went from Richardson to Richardson or
15 Irving to Irving or Richardson to Irving or Irving to
16 Richardson? Those are the only possible combinations,
17 aren't they?

Exhibit A - 11_7_07 hearing Transcript excerpt

18 A (Constable) I think that sounds reasonable.
19 Q All right. So it was a local call as defined
20 in the I -- in the ICA, wasn't it?
21 A (Constable) I don't know how the ICA defines
22 local calls. You would have to talk to Trish about
23 that.
24 Q Pardon me. Let me just... Let's look at the
25 definition of local traffic under 53.11 of the general

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1 terms and conditions. And just to make things go
2 fast, local traffic for purposes of intercompany
3 compensation is if the call originates and terminates
4 in the same SWBT exchange area.
5 A (Constable) Okay.
6 Q Or two, originates and terminates within
7 different SWBT exchanges that share a common mandatory
8 local calling area?
9 A (Constable) Okay.
10 Q Richardson and Irving are in the same local
11 calling area, aren't they?
12 A (Constable) I don't know for sure, but I
13 believe so.
14 Q Okay. And certainly Irving is in the same
15 local calling area as Irving?
16 A (Constable) Correct.
17 Q And Richardson is in the same local calling
18 area as Richardson?
19 A (Constable) Correct.
20 Q So it was a local call. Yes?
21 A (Constable) well, I don't think that the

Exhibit A - 11_7_07 hearing Transcript excerpt
22 definition in the ICA applies. Well --

23 Q It was the end points of the communication,
24 wasn't it?

25 A (Constable) well, yeah, I think that what

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1 you would have to do is you would have to look at the
2 different provisions. I mean, you looked at one of
3 the provisions for a local call, but there may be
4 other provisions in the ICA that -- that would
5 equal --

6 Q It says that SWBT performs a test call.

7 A (Constable) Mm-hmm.

8 Q And reaches out to San Antonio and launches a
9 call. A guy standing in one room launches a call and
10 calls himself, it's not a local call? Is there a
11 provision that says that?

12 A (Constable) You have to understand how the
13 Flexcomm system works. The Flexcomm systems works
14 because we have dedicated ports that reside in each
15 switch, and we use it for testing purposes. So, for
16 example, let's say that an end user calls up and says,
17 "I'm out of the -- the Irving switch and I'm having
18 problems calling a specific phone number."

19 well, we can use the Flexcomm to
20 replicate that trouble. So the actual switching end
21 points are within San Antonio and the Dallas area.
22 And then they just have extra long loops back to
23 the -- to the NOC and CNOC centers.

24 Q I understand. But the person who was making
25 the call --

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Exhibit A - 11_7_07 hearing Transcript excerpt

1 A (Constable) Mm-hmm.

2 Q -- was in the same mandatory local calling
3 area as the person who received the call. Isn't that
4 true?

5 A (Constable) I believe so.

6 Q So the CPN that's represented here, the (210)
7 599-6361, was not in fact the original and true CPN of
8 the calling party, was it? It was some other number,
9 i.e., something from the San Antonio CO.

10 A (Constable) I don't -- I don't believe I
11 understand the question.

12 Q Mr. Herrera's number or Mr. Stalnaker's
13 number is not (210) 599-6361, is it?

14 A (Constable) well, again, they didn't make
15 the calls from their dedicated phone lines that they
16 would normally use. They -- they made them from the
17 Flexcomm system which doesn't have a specific phone
18 number assigned to it.

19 Q Okay. So what they did was they set up a
20 system that would end up signaling the CPN and a call
21 end number between two different local calling areas
22 and indeed in two different LATAs, even though it was
23 a local call, to make it look like a toll call in
24 order to support AT&T's charges against UTEX. Isn't
25 that true?

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1 A (Constable) No, that's not what the purpose
2 of the Flexcomm system is.

3 Q I -- I didn't ask what the purpose of the

Exhibit A - 11_7_07 hearing Transcript excerpt
4 system was. I asked what the purpose of the call was.

5 A (Constable) The purpose of the call was to
6 see how the traffic would route.

7 Q Okay. Well, do you know that maybe -- UTEX
8 maybe has some magic that you could figure out that it
9 was in fact a local call, that it knew somehow that
10 the calls were really originated and terminated in the
11 same local calling area?

12 A (Constable) My understanding is that UTEX
13 doesn't have a magic --

14 Q Well, that may be your understanding, but do
15 you know for a fact that we couldn't tell?

16 A (Constable) That you couldn't tell what?

17 Q That we couldn't tell that the originating
18 and terminating points were in the same local calling
19 area?

20 A (Constable) I don't know if you can tell
21 that or not.

22 Q Well, since it was in fact a local call, we
23 were not misrouting, were we?

24 A (Constable) We never -- never alleged that
25 UTEX misrouted the call.

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1 Q You're not alleging that on account of those
2 20 test calls that you made using this very system,
3 that these very numbers that -- that those test calls
4 provide no support for your misrouting claims?

5 A (Constable) I never said UTEX is misrouting
6 traffic.

7 Q You said they were supporting the misrouting,
8 the avoidance of access charges.

Exhibit A - 11_7_07 hearing Transcript excerpt

9 A (Constable) Right. We -- we do say that you
10 are supporting the avoidance of access charges.

11 Q Access charges don't apply to that call, do
12 they?

13 A (Constable) Well, of course they apply.

14 Q They do? It was a local call.

15 A (Constable) It was a one plus call sent to
16 an IXC.

17 Q Well, the origination and termination points
18 were in the same local calling area. It was a local
19 call.

20 A (Constable) No, it -- it wasn't a local
21 call.

22 JUDGE FIELD: This is just a debate.
23 Let's ask questions and answer questions.

24 Q. (By Mr. McCollough) Okay. This IXC you
25 mentioned, Dial-Around Telecom, do they provide VOIP?

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1 A (Constable) I don't know.

2 Q You don't know. You've been handed what's
3 been marked by the court reporter UTEX Exhibit 837.
4 Does this appear to be a press announcement indicating
5 that Dial-Around Telecom has selected a particular
6 service delivery platform to provide enhanced
7 services?

8 JUDGE FIELD: Wait just a minute, Mr.
9 McCollough.

10 MS. KEENEY: That's the -- I don't have
11 that marked. Scott, I don't have -- there's -- is
12 this the Discover Motiva card thing?

Exhibit A - 11_7_07 hearing Transcript excerpt

13 MR. MCCOLLOUGH: Yes.
14 MS. KEENEY: Okay.
15 MR. MCCOLLOUGH: It's 837.
16 MS. KEENEY: That was not marked. Okay.
17 JUDGE FIELD: Okay. Go ahead.
18 Q. (By Mr. McCollough) Does it look like a press
19 announcement indicating Dial-Around Telecom has bought
20 a Veraz platform to provide enhanced services?
21 A (Constable) It looks like a web site.
22 Q It is a printout from a web site. I printed
23 it last night.
24 A (Constable) Okay.
25 Q Did you check to investigate whether

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1 Dial-Around Telecom held itself out as a VOIP
2 provider?
3 A (Constable) No, I did not.
4 Q Okay. Well, you just called it a regular
5 IXC. I'm just curious. If they provide VOIP, there's
6 at least some question as to whether they might be
7 providing something akin to enhanced service, isn't
8 there?
9 A (Constable) I don't want to be unresponsive
10 to your question, but as I understand it, providers
11 provide multiple types of services. So in this
12 instance they certainly were providing an
13 interexchange service, but they may also provide other
14 types of services.
15 Q So then it was Dial-Around Telecom providing
16 an interexchange service?
17 A (Constable) Correct, in this testimony --

Exhibit A - 11_7_07 hearing Transcript excerpt

18 Q An interLATA service. At least you think it
19 is since it -- y'all came in here saying it was from
20 San Antonio to Irving?

21 A (Constable) Correct.

22 Q So if Dial-Around Telecom was the one
23 providing the interexchange service, why are you
24 saying that we were?

25 A (Constable) Where do I say that?

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1 Q Well, isn't AT&T saying that UTEX is the one
2 that's providing an interLATA service?

3 A (Constable) You would have to point me to my
4 testimony, but I don't recall saying that.

5 Q Okay. So you're not saying it, that UTEX
6 provides an interLATA service?

7 A (Constable) No. I don't know if they do or
8 not.

9 Q Okay. Dial-Around Telecom used Vartec's
10 network in order to achieve transport of its calls,
11 didn't it?

12 A (Constable) I don't know.

13 Q You have no knowledge of what underlying
14 carrier Dial-Around Telecom used?

15 A (Constable) I have no knowledge.

16 Q Okay. Have you been involved in any projects
17 with AT&T dealing with Vartec?

18 A (Constable) Not that I recall.

19 Q Okay. Has AT&T done any tests similar to the
20 one that you are talking about on pages 19 to 21 since
21 2005?

22 A (Constable) Yes.
23 Q With regard to UTEX?
24 A (Constable) Yes.
25 Q Have you provided that information to us in

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1 discovery?

2 A (Constable) I don't know.

3 Q I'll represent to you all we got was
4 representations of about 20 tests and some
5 documentation, all of which were in 2005.

6 A (Constable) Okay.

7 Q You're aware of others?

8 A (Constable) We produced -- or I had some
9 test calls made from telecom -- from Dial-Around. I
10 don't know when the actual time frame was. But
11 because the -- the call traces that we had were from
12 2005, I wanted to verify that the traffic had still
13 occurred.

14 Q And what year was that?

15 A (Constable) Well, the test call in my
16 testimony is from 2005.

17 Q Okay. When was the most recent one that you
18 did?

19 A (Constable) It was this year.

20 Q You did the one this year.

21 A (Constable) Correct.

22 Q Did you produce that information in
23 discovery?

24 A (Constable) I do not know.

25 Q Did you provide it to counsel for production?

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Exhibit A - 11_7_07 hearing Transcript excerpt

1 A (Constable) I don't believe so. I know I
2 referenced in my testimony that we had conducted
3 similar test calls and verified that the traffic was
4 still ongoing.

5 Q Okay. Now, when you received instructions
6 from counsel for AT&T to produce information relevant
7 to this case, did they tell you to give everything up
8 that you had that related to UTEX?

9 A (Constable) when we did the discovery I
10 didn't have the test calls at that time. They were
11 conducted afterwards.

12 Q Did you give them to your counsel for perhaps
13 supplementation?

14 A (Constable) I don't believe I did.

15 Q Page 36, line 13 of your direct. You say
16 that AT&T's billing system...

17 All right. Let me back up. These tests
18 that you say you -- you produced in 2007, were -- did
19 they occur in like September or October?

20 A (Constable) I think it was fairly recent.
21 It was while we were conducting or providing direct
22 testimony. So, yes, they were fairly recent. I don't
23 recall the exact month.

24 Q And you didn't attach the -- excuse me. You
25 didn't attach the results to your testimony similar to

1 the way that you did on pages 19 to 21 of your direct?

2 A (Constable) No, I did not.

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